

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JIMMY MAGEE,)	1:05-cv-00540-REC-TAG HC
)	
Petitioner,)	ORDER ADOPTING REPORT AND
)	RECOMMENDATION (Doc. 7)
v.)	
)	ORDER DISMISSING PETITION FOR WRIT
)	OF HABEAS CORPUS (Doc. 1)
LAW LIBRARIAN, et al.)	
)	ORDER DENYING PETITIONER'S MOTION
Respondent.)	FOR A TEMPORARY RESTRAINING ORDER
)	(Doc. 6)

ORDER DIRECTING CLERK OF COURT TO
SENT PETITIONER FORM FOR FILING
CLAIMS PURSUANT TO 42 U.S.C. § 1983

ORDER DIRECTING CLERK OF COURT
TO ENTER JUDGMENT

Petitioner is a state prisoner proceeding pro se on a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. On April 22, 2005, Petitioner filed his petition for writ of habeas corpus in this Court, alleging racially prejudiced policies by prison officials in providing access

1 to the prison law library. (Doc. 1). On May 10, 2005, Petitioner filed a motion for a temporary
2 restraining order raising the same issue. (Doc. 6).

3 On September 22, 2005, the Magistrate Judge assigned to the case filed a Report and
4 Recommendation recommending the petition for writ of habeas corpus be DISMISSED because
5 Petitioner did not raise issues that would entitle Petitioner to habeas relief under 28
6 U.S.C. § 2241, but instead raised issues that should have been brought under 42 U.S.C. §1983.
7 (Doc. 7). This Report and Recommendation was served on all parties and contained notice that
8 any objections were to be filed within thirty (30) days from the date of service of that order. To
9 date, the parties have not filed timely objections to the Report and Recommendation.

10 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted
11 a *de novo* review of the case. Having carefully reviewed the entire file, the Court concludes that
12 the Magistrate Judge's Report and Recommendation is supported by the record and proper
13 analysis.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The Report and Recommendation, filed September 22, 2005 (Doc. 7), is
16 ADOPTED IN FULL;
- 17 2. This petition for writ of habeas corpus (Doc. 1), is DISMISSED;
- 18 3. Petitioner's motion for a temporary restraining order (Doc. 6), is DENIED as
19 MOOT;
- 20 4. The Clerk of Court is DIRECTED to send Petitioner the standard forms for filing
21 claims pursuant to 42 U.S.C. § 1983; and
- 22 5. The Clerk of Court is DIRECTED to ENTER JUDGMENT for Respondent.

23 IT IS SO ORDERED.

24 Dated: November 2, 2005
668554

/s/ Robert E. Coyle
UNITED STATES DISTRICT JUDGE